

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 82 of 2002

CRA.156/2001 of ADDL. SESSIONS COURT, ALAPPUZHA
ST.80/1999 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA
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REVN. PETITIONER:

G.GOPALAKRISNAN, AGED 40 YEARS,
S/O. CHELLAPPA KURUP, (PROPRIETOR IWARI OIL
MILLS AND CURRY POWDER UNIT), KALLOPPADAM VEEDU,
NORTH ARYAD P.O., ALAPPUZHA.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS:

1. RAMACHANDRAN NAIR, POURNAMI VEEDU,
(KAMALALAYAM) PATHIRAPPALLY P.O., ALAPPUZHA.
2. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, THIRUVANANTHAPURAM THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

BY ADV. SRI.JOHN BRITTO
SRI.C.A.RAJEEV
PUBLIC PROSECUTOR SRI.FIROZ K.M.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

K.P.BALACHANDRAN, J.

Crl.R.P.NO.82 OF 2002

Dated this the 20th day of December 2006

ORDER

The accused convicted for offence under Section 138 of N.I. Act and sentenced thereunder to undergo simple imprisonment for three months concurrently by the courts below is the petitioner in this revision. This revision is filed assailing the legality and propriety of the conviction and sentence so passed against him.

2. After advancing arguments vehemently on the merits of the case for sometime, probably on being convinced that I am not moved by the submissions made so as to interfere in the concurrent conviction and sentence passed against the petitioner by the courts below, counsel for the petitioner submitted that she does not want to have the Revision considered on merits and that it is enough that the sentence of imprisonment is avoided and that the petitioner be ordered to pay fine or compensation in lieu thereof.

3. Having considered the submissions so made, I am of the view that the sentence of simple imprisonment for three months

can be modified and reduced to imprisonment for one day till rising of court and to pay a fine of Rs.60,000/- and in default to undergo simple imprisonment for a term of three months.

In the result, I confirm the conviction of the petitioner for offence under Section 138 of N.I. Act but modify and reduce the sentence of imprisonment to one of simple imprisonment for one day till rising of court and to pay a fine of Rs.60,000/- and in default to undergo simple imprisonment for a term of three months. The petitioner shall surrender before the Chief Judicial Magistrate, Alappuzha positively within two months from today to serve the sentence and shall make deposit of the fine amount of Rs.60,000/- on that day itself. In case the fine amount is not so deposited, the learned Chief Judicial Magistrate shall impose default sentence against the petitioner forthwith. In case the fine amount is realised it shall be paid over to the complainant by way of compensation under Section 357 (3) Cr.P.C.

K.P.BALACHANDRAN, JUDGE

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K.P.BALACHANDRAN, J.

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ORDER

Dated 20th December 2006